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Attorneys for Plaintiff

9 **UNITED STATES DISTRICT COURT**  
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
11 **EASTERN DIVISION**

12 MICHELE TUCKER, individually  
13 and on behalf of all others similarly  
14 situated,

15 Plaintiff,

16 v.  
17

18 CONTINENTAL MILLS, INC.,

19 Defendant.  
20

Case No.

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

1 Plaintiff Michele Tucker (“Plaintiff” or “Ms. Tucker”) on behalf of herself,  
2 all others similarly situated, and the general public, by and through her  
3 undersigned counsel, hereby brings this action against Continental Mills, Inc.  
4 (“Defendant”), and upon information and belief and investigation of counsel,  
5 alleges as follows:

6 **INTRODUCTION**

7 1. This is a consumer class action for violations of the Consumers Legal  
8 Remedies Act, Cal. Civ. Code §§ 1750, *et seq.* (“CLRA”), Unfair Competition  
9 Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (“UCL”), and for breach of express  
10 warranty.

11 2. Defendant manufactures, distributes, advertises, markets, and sells  
12 Krusteaz® Cinamon Swirl Crumb Cake & Muffin Mix in a gluten free and regular  
13 version (the “Products”). The packaging prominently displays on the front of the  
14 label the claim that these Products contain “**NO ARTIFICIAL Flavors · Colors**  
15 **· Preservatives**” (the “Representation”):  
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1           3.     The “**NO ARTIFICIAL . . . PRESERVATIVES**” statement is false.  
2     The Products are made with manufactured Silicon Dioxide—an artificial  
3     preservative ingredient used in food and beverage products.

4           4.     The ingredients are listed on the back of the Product (regular version)  
5     in tiny print and list the following ingredients: CAKE MIX: Enriched bleached  
6     flour (wheat flour, niacin, reduced iron, thiamin mononitrate, riboflavin, folic  
7     acid), sugar, food starch-modified, soybean oil, leavening (baking soda,  
8     monocalcium phosphate, sodium aluminum sulfate), dextrose, salt, tapioca starch,  
9     arabic gum, xanthan gum, natural flavor. CINNAMON TOPPING: Sugar, palm  
10    and soybean oil, brown sugar, cinnamon, molasses powder, salt, silicon dioxide  
11    (anticaking agent), natural flavor.

12          5.     The ingredients are listed on the back of the Product (gluten free  
13    version) in tiny print and list the following ingredients: CAKE MIX: Sugar, whole  
14    grain sorghum flour, whole grain millet flour, food starch-modified soybean oil,  
15    arabic gum, guar gum, leavening (baking soda, sodium aluminum phosphate,  
16    monocalcium phosphate), natural flavor, salt, tapioca starch, xanthan gum.  
17    TOPPING: Sugar, Palm and Soybean Oil, Brown Sugar, Cinnamon, Salt, Silicon  
18    Dioxide (anticaking agent), natural flavor.

19          6.     Defendant’s packaging, labeling, and advertising scheme is intended  
20    to give consumers the belief that they are buying a premium product that abides  
21    by the Representation.

22          7.     Plaintiff, who purchased the Products in California, was deceived by  
23    Defendant’s unlawful conduct and brings this action on her own behalf and on  
24    behalf of consumers to remedy Defendant’s unlawful acts.

25                                   **JURISDICTION AND VENUE**

26          8.     This Court has original jurisdiction over this action pursuant to 28  
27    U.S.C. § 1332(d) because this is a class action in which: (1) there are over 100  
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1 members in the proposed class; (2) members of the proposed classes of have a  
2 different citizenship from Defendant, a Washington corporation; and (3) the  
3 claims of the proposed class members exceed \$5,000,000 in the aggregate,  
4 exclusive of interest and costs.

5 9. The Products were sold to hundreds of class members during the  
6 putative class period—well over the 100 class members requirement.

7 10. Defendant is a Washington company with its principal place of  
8 business in Washington and class members, including Plaintiff, are from states  
9 outside Wahsington. Thus, there is diversity under 28 U.S.C. § 1332(d).

10 11. This litigation exceeds the \$5 million requirement under 28 U.S.C. §  
11 1332(d). *See e.g., Montera v. Premier Nutrition Corp., No. 16-CV-06980-RS,*  
12 *2022 WL 10719057, at \*3 (N.D. Cal. Oct. 18, 2022), aff'd, 111 F.4th 1018 (9th*  
13 *Cir. 2024)* (noting lodestar alone after jury trial in a false and misleading labeling  
14 consumer protection action was \$6,806,031.96).

15 12. This Court has personal jurisdiction over Defendant because  
16 Defendant conducts and transacts business in the State of California, contracts to  
17 supply goods within the State of California, and supplies goods within the State  
18 of California. Defendant, on its own and through its agents, is responsible for the  
19 distribution, marketing, labeling, and sale of the Products in California,  
20 specifically in this judicial district. The marketing of the Products, including the  
21 decision of what to include and not include on the labels, emanates from  
22 Defendant. Thus, Defendant has intentionally availed itself of the markets within  
23 California through its advertising, marketing, and sale of the Products to  
24 consumers in California, including Plaintiff.

25 13. The Court also has specific jurisdiction over Defendant as it has  
26 purposefully directed activities towards the forum state, Plaintiff's claims arise  
27 out of those activities, and it is reasonable for Defendant to defend this lawsuit  
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1 because it has sold deceptively advertised Products to Plaintiff and members of  
2 the Class in California. By distributing and selling the Products in California,  
3 Defendant has intentionally and expressly aimed conduct at California which  
4 caused harm to Plaintiff and the Class that Defendant knows is likely to be  
5 suffered by Californians.

6 14. Venue is proper pursuant to 28 U.S.C. § 1391(b) because a  
7 substantial part of the events or omissions giving rise to the claim occurred in this  
8 District. Plaintiff purchased the Products within this District.

9 **PARTIES**

10 15. Defendant is a Washington corporation that maintains its principal  
11 place of business in Washington. At all times during the class period, Defendant  
12 was the manufacturer, distributor, marketer, and seller of the Products. Defendant  
13 sells its Products in large retail stores nationwide and in California including  
14 Walmart, Ralphs, Target, Vons, and online via amazon.com and Instacart. No  
15 matter where the Products are sold, they contain the same alleged deceptive  
16 Representation.

17 16. Plaintiff is a resident of Riverside County, California. Plaintiff  
18 purchased the Products at retail stores in California during the class period.  
19 Plaintiff relied on Defendant's deceptive advertising and labeling claims as set  
20 forth herein.

21 **ADDITIONAL FACTUAL ALLEGATIONS**

22 17. The front label of the Product prominently states that there are "**NO**  
23 **ARTIFICIAL . . . PRESERVATIVES**" the thereby misleading reasonable  
24 consumers into believing that the Products do not contain any artificial  
25 preservative ingredients. However, the Products contain an artificial preservative  
26 called Silicone Dioxide.



18. Studies show a growing number, if not a majority of, consumers choose foods made with clean ingredients.<sup>1</sup> In 2024, the global clean label ingredients market size was \$44 billion.<sup>2</sup> As such, tapping into the clean label market is important to a company's growth and bottom line.<sup>3</sup>

19. Indeed, it is well documented that manufacturers charge and consumers are willing to pay a premium for products with clean ingredients (e.g., those that lack artificial ingredients).<sup>4</sup>

20. Consumer research has found that 82% of U.S. respondents believe that foods with artificial ingredients are less healthy than their all-natural counterparts.<sup>5</sup>

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<sup>1</sup> *IFIC Survey: From "Chemical-sounding" to "Clean": Consumer Perspectives on Food Ingredients*, FOOD INSIGHT (June 17, 2021), available at <https://foodinsight.org/ific-survey-from-chemical-sounding-to-clean-consumer-perspectives-on-food-ingredients/>; Alverson, Chloe, *Consumer trends continue to prioritize clean label, non-GMO beverages*, BEVERAGE INDUSTRY, available at <https://www.bevindustry.com/articles/96687-consumer-trends-continue-to-prioritize-clean-label-non-gmo-beverages>.

<sup>2</sup> *Clean Label Ingredient - Market Share Analysis, Industry Trends & Statistics, Growth Forecasts (2024 - 2029)* (synopsis), MORDOR INTELLIGENCE, available at <https://www.researchandmarkets.com/reports/4771850/clean-label-ingredient-market-share-analysis?w=5>; *Clean Label Ingredients Market is Projected to Reach US\$ 125.5 Billion and a Dynamic CAGR of 4.2% by 2030*, PERSISTENCE MARKET RESEARCH (Jan. 18, 2024), available at <https://www.globenewswire.com/en/news-release/2024/01/18/2811262/0/en/Clean-Label-Ingredients->.

<sup>3</sup> *Uncovering the clean label connection to business grow* (May 16, 2022), available at <https://www.ingredion.com/na/en-us/be-whats-next/growth-with-clean-label.html>; *Uncovering the clean label connection to business growth*, INGREDION (May 16, 2022), available at <https://www.ingredion.com/na/en-us/be-whats-next/growth-with-clean-label.html>.

<sup>4</sup> *The Truth About Clean Label — and Why It Matters*, PERDUE FOOD SERVICE (Oct. 18, 2021), available at <https://www.perduefoodservice.com/resources/trends-insights/the-truth-about-clean-label-and-why-it-matters/>; Jacobsen, Jessica, *Consumer awareness of clean label drives demand for ingredient solutions*, BEVERAGE INDUSTRY, available at <https://www.bevindustry.com/articles/95110-consumer-awareness-of-clean-label-drives-demand-for-ingredient-solutions>.

<sup>5</sup> Kavanaugh J., *The Future of Artificial Flavors & Ingredients*. Forevest, Industry News, Flavor & Fragrance Industry (June 12, 2017) available at

21. Defendant takes advantage of consumers by labeling the Products as containing “No Artificial Preservatives” even though the Products contain an artificial preservative. It does this to increase sales.

**THE SILICON DIOXIDE IN THE PRODUCT IS ARTIFICIAL**

22. The Silicon Dioxide in the Products is “artificial.” Dictionary definitions define “artificial” as something made by man. For example, “artificial” is defined as “made by human skill; produced by humans ...”<sup>6</sup> Merriam-Webster’s online dictionary states that “artificial” means “humanly contrived ...”<sup>7</sup> Cambridge Dictionary states that “artificial” means “made by people, often as a copy of something natural.”<sup>8</sup>

23. Consumer perception of the word “artificial” is in-line with the dictionary definitions. That is, a consumer expects a “No Artificial Preservative” claim to mean that any preservative ingredient in the food is in its natural state and has not been modified in some way.<sup>9</sup>

24. Here, the Silicone Dioxide in the Products is artificial because it is made using synthetic processing.

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<https://foreverest.net/news-list/the-future-of-artificial-flavors-ingredients> (citing International, S. S. (2015, October 1). National study by Instantly reveals many Americans do not trust large companies – instantly. Retrieved January 26, 2017, from Press Releases

<sup>6</sup> *Artificial*, DICTIONARY.COM, available at <https://www.dictionary.com/browse/artificial>

<sup>7</sup> *Artificial*, MERRIAM-WEBSTER’S DICTIONARY, available at <https://www.merriam-webster.com/dictionary/artificial>

<sup>8</sup> *Artificial*, CAMBRIDGE DICTIONARY, available at <https://dictionary.cambridge.org/us/dictionary/english/artificial>

<sup>9</sup> *Artificial Foods*. ENCYCLOPEDIA.COM. available at <https://www.encyclopedia.com/food/encyclopedias-almanacs-transcripts-and-maps/artificial-foods>



25. Silicon Dioxide (SiO<sub>2</sub>) in food products, including the Products, is synthetically manufactured (e.g., it is “artificial”).<sup>10</sup> “Food-grade silicon dioxide” is known as a “synthetic” compound.<sup>11</sup>

26. Food grade Silicon Dioxide is amorphous (non-crystalline), which is considered safer than crystalline forms (like quartz). Crystalline forms of Silicon Dioxide are not utilized in the food industry because workers at the manufacturing plant are exposed to serious health hazards from breathing the small crystalline particles.<sup>12</sup> Food-grade Silicon Dioxide, like the Silicon Dioxide in the Products, is considered artificial and synthetic.

27. Safety Data Sheets note that food-grade Silicon Dioxide is “chemically prepared.”<sup>13</sup> Food-grade Silicon Dioxide manufacturers state “Silicon Dioxide (SiO<sub>2</sub>) is a white, high purity, tasteless, odorless, easy dispersion, **chemical powder** produced by the precipitation of sodium silicate with sulfuric acid through hydrolysis.”<sup>14</sup>

28. Silicon Dioxide for foods is “meticulously **manufactured** through a controlled precipitation process.”<sup>15</sup>

<sup>10</sup> See Lamas B, Martins Breyner N, Malaisé Y, Wulczynski M, Galipeau HJ, Gaultier E, Cartier C, Verdu EF, Houdeau E. *Evaluating the Effects of Chronic Oral Exposure to the Food Additive Silicon Dioxide on Oral Tolerance Induction and Food Sensitivities in Mice*. Environ Health Perspect. 2024 Feb;132(2):27007. doi: 10.1289/EHP12758. Epub 2024 Feb 21. PMID: 38380914

<sup>11</sup> *Id.*

<sup>12</sup> U.S. Department of Labor, Occupational Safety and Health Administration, *Silica, Crystalline* available at [https://www.osha.gov/silica-crystalline/health-effects#:~:text=Breathing%20in%20very%20small%20\(%22respirable,COPD\)%2C%20and%20kidney%20disease.](https://www.osha.gov/silica-crystalline/health-effects#:~:text=Breathing%20in%20very%20small%20(%22respirable,COPD)%2C%20and%20kidney%20disease.)

<sup>13</sup> <https://www.univarsolutions.com/zeofree-5162-silicon-dioxide-16166394>

<sup>14</sup> <https://e-milagro.com/products/silica/>

<sup>15</sup> RawPharma, *Precipitated Silicon Dioxide Food Grade 1Kg Pack* available at <https://rawpharmabiz.com/precipitated-silicon-dioxide-food-1kg->

29. “Food-grade SiO<sub>2</sub> is produced either thermally (e.g., fumed SiO<sub>2</sub>) or through wet chemistry (e.g., SiO<sub>2</sub>gel and precipitated SiO<sub>2</sub> (OECD, 2004).”<sup>16</sup> “The worldwide production of SiO<sub>2</sub> in 2000 was 432,900 tons, with ~ 90% reported to be SAS for food industry and other sectors (OECD, 2004).”<sup>17</sup> “The production, use, and end-of-life disposal of food-grade SiO<sub>2</sub> can lead to direct and indirect exposure of humans and the environment (Hansen et al., 1999, van Kesteren et al., 2014), and there are emerging concerns about its potential risk to humans and ecosystems (Maynard, 2014).”<sup>18</sup> This health concern is why the FDA does not allow Silicon Dioxide to be in any food above two percent by weight. 21 C.F.R. § 172.480(b)(4).

30. The FDA states that “[t]he food additive silicon dioxide . . . is manufactured by vapor phase hydrolysis or by other means whereby the particle size is such as to accomplish the intended effect.” 21 C.F.R. § 172.480(a).

31. Food grade Silicon Dioxide is synthetically created. “Silicon dioxide is synthetically obtained from a vapor-phase hydrolysis reaction producing fumed silica. Another process to obtain synthetic amorphous silica is through a wet process to form hydrous silica.”<sup>19</sup>

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pack?srsId=AfmBOooNn6PUYsJaeh-  
L8q6qbPsAhwXuL0TQ0xn2GBfadZLUB3U1yRa8

<sup>16</sup> Yu Yang, James J. Faust, Jared Schoepf, Kiril Hristovski, David G. Capco, Pierre Herckes, Paul Westerhoff, *Survey of food-grade silica dioxide nanomaterial occurrence, characterization, human gut impacts and fate across its lifecycle*, SCIENCE OF THE TOTAL ENVIRONMENT. 2016; 565:902-912, ISSN 0048-9697.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Bakerpedia, *Silicon Dioxide Also known as synthetic amorphous silica (SAS)*, AMERICAN SOCIETY OF BAKING Available at <https://dev.bakerpedia.com/ingredients/silicon-dioxide/>

1           32. Since 90% of the world's food grade Silicon Dioxide is "Synthetic  
2 Amorphous Silica" commonly referred to as "SAS,"<sup>20</sup> it is highly likely that the  
3 Silicon Dioxide in the Products is SAS. <sup>21</sup> Here, it is even more likely that the  
4 Products use SAS because SAS is used as an "anticaking agent."<sup>22</sup> Non-  
5 nanostructured alternatives (which are also artificial as explained above) usually  
6 employ a completely different mode of action and in many cases do not perform  
7 as well as SAS as both anticaking agents and free-flow aids.<sup>23</sup> Thus, higher dosage  
8 of additives is necessary.<sup>24</sup> Here, it is extremely likely (above 90%) that the  
9 Products contain Synthetic Amorphous Silica since it is used in a small dosage  
10 for anticaking preservative purposes. As the name indicates it is "Synthetic"  
11 which means it is artificial.

12           33. Synthetic Amorphous Silica is manufactured through controlled  
13 processes such as: Precipitated silica which is made by reacting sodium silicate  
14 with acid; Fumed (pyrogenic) silica which is made by burning silicon  
15 tetrachloride in a hydrogen-oxygen flame; and Silica gel which is made by  
16 polymerizing silicic acid.<sup>25</sup> All of these processes are synthetic (i.e., artificial).

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19 <sup>20</sup> *Supra*, note 16 (Yu Yang, James J. Faust, Jared Schoepf, Kiril Hristovski,  
20 David G. Capco, Pierre Herckes, Paul Westerhoff, *Survey of food-grade silica*  
21 *dioxide nanomaterial occurrence, characterization, human gut impacts and fate*  
*across its lifecycle*, Science of The Total Environment. 2016; 565:902-912, ISSN  
0048-9697).

22 <sup>21</sup> Evonik Silica, Essential, Sustainable, and Safe, Industry Brochure 319  
23 available at  
24 [https://products.evonik.com/assets/28/44/IB\\_319\\_Evonik\\_silica\\_essential\\_sustainable\\_safe\\_EN\\_Asset\\_482844.pdf](https://products.evonik.com/assets/28/44/IB_319_Evonik_silica_essential_sustainable_safe_EN_Asset_482844.pdf)  
25 [https://products.evonik.com/assets/28/44/IB\\_319\\_Evonik\\_silica\\_essential\\_sustainable\\_safe\\_EN\\_Asset\\_482844.pdf](https://products.evonik.com/assets/28/44/IB_319_Evonik_silica_essential_sustainable_safe_EN_Asset_482844.pdf)

26 <sup>22</sup> *Id.*

27 <sup>23</sup> *Id.*

28 <sup>24</sup> *Id.*

<sup>25</sup> Fruijtier-Pölloth C. *The safety of nanostructured synthetic amorphous silica (SAS) as a food additive (E 551)*. ARCH TOXICOL. 2016 Dec;90(12):2885-2916.

1           34. Synthetic amorphous silica is artificial because it is “intentionally  
2 manufactured” rather than occurring naturally.<sup>26</sup> Unlike crystalline silica, which  
3 is found in nature (such as quartz which is not in the Products), SAS is engineered  
4 to be highly pure and crystalline-free. It comes in different forms, including  
5 pyrogenic (fumed) silica, precipitated silica, silica gel, and colloidal silica.

6           35. Commercial Synthetic Amorphous Silica, or Silicon Dioxide, can  
7 have a range of very fine silica particles down in the nano range. Commercial  
8 food-grade silica can contain nanoparticles, specifically synthetic amorphous  
9 silica (SAS), which is widely used as an anticaking agent in food products.<sup>27</sup>  
10 Studies have confirmed the presence of nano silica (E551) in commercial food  
11 items, though its particle size and morphology are not always disclosed on  
12 labels.<sup>28</sup>

13           36. Whether Defendant uses either non-crystalline food grade Silicon  
14 Dioxide or Synthetic Amorphous Silica variety does not matter since both are  
15 created by a synthetic and artificial process making the Silicon Dioxide in the  
16 Products artificial.

17           37. Accordingly, the “No Artificial Preservatives” claim on the labels of  
18 the Products is false and misleading.  
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22           doi: 10.1007/s00204-016-1850-4. Epub 2016 Oct 3. PMID: 27699444; PMCID:  
23           PMC5104814.

24           <sup>26</sup> Association of Synthetic Amorphous Silica Producers, *Synthetic Amorphous  
25           Silica explained* available at <https://www.asasp.eu/about-sas/what-is-sas/>

26           <sup>27</sup> Athinarayanan, J., Periasamy, V.S., Alsaif, M.A. et al. *Presence of nanosilica  
27           (E551) in commercial food products: TNF-mediated oxidative stress and altered  
28           cell cycle progression in human lung fibroblast cells*. CELL BIOL TOXICOL 30, 89–  
29           100 (2014). <https://doi.org/10.1007/s10565-014-9271-8>

30           <sup>28</sup> *Id.*

**THE SILICONE DIOXIDE IN THE PRODUCTS FUNCTIONS AS A PRESERVATIVE**

38. The FDA defines a preservative as “any chemical that, when added to food, tends to prevent or retard deterioration thereof, but does not include common salt, sugars, vinegars, spices, or oils extracted from spices, substances added to food by direct exposure thereof to wood smoke, or chemicals applied for their insecticidal or herbicidal properties.” 21 C.F.R. §101.22(a)(5).

39. The FDA lists Silicon Dioxide as an anticaking agent, antioxidant, and humectant, among other things.<sup>29</sup>

40. Anticaking agents prevent foods from sticking together and ensuring a product remains dry and free-flowing<sup>30</sup>, antioxidants impede rotting<sup>31</sup>, and humectants prevent things from drying out.<sup>32</sup>

41. By acting as an anti-caking agent (which Defendant specifically notes as its function on the back label), antioxidant, and humectant, Silicon Dioxide preserves the shelf-life of the Products and thus acts as a preservative, as it tends to prevent or retard deterioration. Silicon Dioxide is a preservative because it supports reductions in oxidation or moisture by its properties as discussed below.

42. Silicon Dioxide’s ability to control moisture and prevent clumping directly contributes to food preservation. *See* 21 C.F.R. §101.22(a)(5) (defining

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<sup>29</sup>

<https://www.hfpappexternal.fda.gov/scripts/fdcc/index.cfm?set=FoodSubstances&id=SILICONDIOXIDE>

<sup>30</sup> The Basics of Anti-Caking Agents, <https://www.ulprospector.com/knowledge/3306/fbn-the-basics-of-anti-caking-agents>.

<sup>31</sup> Antioxidants versus Food Antioxidant Additives and Food Preservatives <https://pmc.ncbi.nlm.nih.gov/articles/PMC6912551/>.

<sup>32</sup>What are humectants, <https://www.12taste.com/blogs/what-are-humectants-and-why-are-they-used-in-food-processing/>.

1 preservatives as “any chemical that, when added to food, *tends to* prevent or retard  
2 deterioration”); *see also* Merriam-Webster’s Dictionary (defining “preservative”  
3 as “something that preserves or *has the power of preserving.*”).<sup>33</sup>

4 43. Incorporation of precipitated Silicon Dioxide contributes to the  
5 stabilization of emulsions and suspensions, aiding in the maintenance of  
6 consistent textures and appearances in a range of food products. Its presence in  
7 dressings, sauces, and dairy-based products helps ensure that these formulations  
8 remain visually appealing and enjoyable to consumers over their intended shelf  
9 life.<sup>34</sup>

10 44. Silicon Dioxide is highly adsorbent, meaning it can attract and hold  
11 moisture. By keeping products dry, it: (1) slows microbial growth (since many  
12 microbes need moisture); (2) prevents clumping in powdered goods; and (3)  
13 increases shelf life indirectly by maintaining texture and usability.

14 45. Silicon dioxide slows microbial growth by controlling moisture  
15 levels. Many microbes require moisture to thrive, so by keeping food products  
16 dry, silicon dioxide helps limit conditions that would otherwise support bacterial  
17 or fungal growth. Silicon Dioxide’s role as an anticaking agent in powdered  
18 foods, like the Products, contributes to preservation by reducing humidity-related  
19 spoilage.<sup>35</sup>

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21 <sup>33</sup> *Preservative*, MERRIAM-WEBSTER’S DICTIONARY, *available at*  
22 [https://www.merriam-](https://www.merriam-webster.com/dictionary/preservative?utm_campaign=sd&utm_medium=serp&utm_source=jsonld)  
23 [webster.com/dictionary/preservative?utm\\_campaign=sd&utm\\_medium=serp&utm\\_source=jsonld](https://www.merriam-webster.com/dictionary/preservative?utm_campaign=sd&utm_medium=serp&utm_source=jsonld)

24 <sup>34</sup> RawPharma, *Precipitated Silicon Dioxide Food Grade 1Kg Pack* available at:  
25 [https://rawpharmabiz.com/precipitated-silicon-dioxide-food-1kg-](https://rawpharmabiz.com/precipitated-silicon-dioxide-food-1kg-pack?srltid=AfmBOooNn6PUYsJaeh-L8q6qbPsAhwXuL0TQ0xn2GBfadZLUB3U1yRa8)  
26 [pack?srltid=AfmBOooNn6PUYsJaeh-](https://rawpharmabiz.com/precipitated-silicon-dioxide-food-1kg-pack?srltid=AfmBOooNn6PUYsJaeh-L8q6qbPsAhwXuL0TQ0xn2GBfadZLUB3U1yRa8)  
[L8q6qbPsAhwXuL0TQ0xn2GBfadZLUB3U1yRa8](https://rawpharmabiz.com/precipitated-silicon-dioxide-food-1kg-pack?srltid=AfmBOooNn6PUYsJaeh-L8q6qbPsAhwXuL0TQ0xn2GBfadZLUB3U1yRa8)

27 <sup>35</sup> Ahmadi-Nouraldinvand, F., Sharifi, R.S., Siadat, S.A. et al. *Fascinating Role of*  
28 *Silicon dioxide Nanoparticles and Co-inoculation of Mycorrhiza and Rhizobacteria to Combat NaCl Stress: Changes in Physiological Characteristics, Uptake of Nutrient Elements, and Enhancing Photosystem II Activities in Wheat.*



1           46. Silicon Dioxide functions as a preservative in the Products regardless  
2 of whether Defendant intended to use it as a preservative. Silicon Dioxide  
3 functions as a preservative even if it is also added to the Products for some other  
4 use. *See* 21 C.F.R. §101.22(a)(5) (defining preservatives as “any chemical that,  
5 when added to food, *tends to* prevent or retard deterioration”) (emphasis added);  
6 *see also* Merriam-Webster’s Dictionary (defining “preservative” as “something  
7 that preserves or *has the power of preserving.*”) (emphasis added).<sup>36</sup>

8           47. Thus, Silicone Dioxide is functioning as a preservative in the  
9 Product.

10           **REASONABLE CONSUMERS ARE DECEIVED BY DEFENDANT’S FALSE LABELING**  
11           **STATEMENT AND SUFFERED ECONOMIC INJURY**

12           48. Consumers, like Plaintiff, relied on Defendant’s Representation  
13 when purchasing the Products.

14           49. The Representation on the labels of the Products is material to  
15 reasonable consumers. “[F]oods bearing ‘free-from’ claims are increasingly  
16 relevant to Americans, as they perceive the products as closely tied to health ...  
17 84 percent of American consumers buy free-from foods because they are seeking  
18 out more natural or less processed foods. In fact, 43 percent of consumers agree  
19 that free-from foods are healthier than foods without a free-from claim, while  
20 another three in five believe the fewer ingredients a product has, the healthier it  
21 is (59 percent). Among the top claims free-from consumers deem most important  
22 are trans-fat-free (78 percent) and preservative-free (71 percent).”<sup>37</sup>

23  
24 J SOIL SCI PLANT NUTR 24, 277–294 (2024). <https://doi.org/10.1007/s42729-024-01640-0>

25 <sup>36</sup> *Preservative*, MERRIAM-WEBSTER’S DICTIONARY, *available at*  
26 [https://www.merriam-](https://www.merriam-webster.com/dictionary/preservative?utm_campaign=sd&utm_medium=serp&utm_source=jsonld)  
27 [webster.com/dictionary/preservative?utm\\_campaign=sd&utm\\_medium=serp&ut](https://www.merriam-webster.com/dictionary/preservative?utm_campaign=sd&utm_medium=serp&utm_source=jsonld)  
28 [m\\_source=jsonld](https://www.merriam-webster.com/dictionary/preservative?utm_campaign=sd&utm_medium=serp&utm_source=jsonld)

<sup>37</sup> 84% of Americans buy “free-from” foods because they believe them to be  
more natural or less processed, MINTEL (Sept. 3, 2015), *available at*

1           50. Plaintiff and the putative class members suffered economic injury as  
2 a result of Defendant's actions. Plaintiff and putative class members spent money  
3 that, absent Defendant's actions, they would not have spent. Plaintiff and putative  
4 class members are entitled to damages and restitution for the purchase price or the  
5 price attributable to the deceptive Representation. Consumers, including Plaintiff,  
6 would not have purchased Defendant's Products, or would have paid less for the  
7 Products, if they had known the Products actually contain an artificial  
8 preservative ingredient.

9                           **MS. TUCKER'S PURCHASE OF THE PRODUCTS**

10           51. Ms. Tucker purchased the Krusteaz® Cinamon Swirl Crumb Cake  
11 & Muffin Mix (regular version) at a Vons retail store near her home in Menifee,  
12 California for approximately \$4.00 per package in the past three years. Her last  
13 purchase is estimated to be in the middle of 2024.

14           52. When purchasing the Product, Ms. Tucker saw and relied on the  
15 **"NO ARTIFICIAL Flavors · Colors · Preservatives"** statement on the front of  
16 the packaging. Ms. Tucker would not have purchased the Product, or would have  
17 paid less for the Product, had she known that the Product actually contains the  
18 artificial preservative Silicon Dioxide in direct contradiction to Defendant's "No  
19 Artificial Preservatives" promise. Like other consumers, Ms. Tucker did not  
20 expect that Defendant would place a false statement about its crumb cake mix on  
21 the front of the package. Ms. Tucker believes that it is not right for Defendant to  
22 lie to its customers.

23           53. As a result, Plaintiff suffered injury in fact when she spent money to  
24 purchase the Product she would not have purchased, or would have paid less for,  
25 absent Defendant's misconduct.

26  
27 [https://www.mintel.com/press-centre/84-of-americans-buy-free-from-foods-  
28 because-they-believe-them-to-be-more-natural-or-less-processed/](https://www.mintel.com/press-centre/84-of-americans-buy-free-from-foods-because-they-believe-them-to-be-more-natural-or-less-processed/)

1           54. Ms. Tucker desires to purchase the Product again if the labels of the  
2 Products were accurate and if the Products actually were free from artificial  
3 preservatives or if the label no longer contained the deceptive Representation.  
4 However, as a result of Defendant's ongoing misrepresentations, Ms. Tucker is  
5 unable to rely on the Products' advertising and labeling when deciding in the  
6 future whether to purchase the Products. Further, Ms. Tucker is not a food  
7 scientist and will not know if the Products are re-formulated to truthfully contain  
8 no artificial preservatives making her at imminent risk of being harmed.

9           55. As shown above, the manufacturing processes for Silicon Dioxide  
10 are complicated and cannot be determined without knowledge of food chemistry.

11                           **NO ADEQUATE REMEDY AT LAW**

12           56. Plaintiff and members of the class are entitled to equitable relief as  
13 no adequate remedy at law exists. The statutes of limitations for the causes of  
14 action pled herein vary. Class members who purchased the Products more than  
15 three years prior to the filing of the complaint will be barred from recovery if  
16 equitable relief were not permitted under the UCL.

17           57. Legal remedies that require more "stringent" proof, and are therefore  
18 harder to obtain, are not "equally prompt and certain."

19           58. Plaintiff is pleading the UCL claim in the alternative and asserts  
20 entitlement to equitable relief to recover the amounts paid for the Product to the  
21 extent those amounts (in whole or in part) are deemed not recoverable as damages  
22 for Plaintiff's legal claims.

23           59. Plaintiff lacks an adequate remedy at law if the amount of damages is  
24 less than the price paid for the goods and restitution and/or injunctive relief may  
25 also be more certain, prompt, and efficient than other legal remedies.

26           60. Damages might be deemed not recoverable for Plaintiff's legal  
27 claims—specifically, because the UCL claim covers more conduct and therefore  
28

1 may be less burdensome to prove. This is because the scope of actionable  
2 misconduct under the unfair prong of the UCL is broader than the other causes of  
3 action asserted herein, and may be less burdensome to prove than the CLRA and  
4 breach of express warranty. It includes Defendant's overall unfair marketing  
5 scheme to promote and brand the Products, across a multitude of media platforms,  
6 including the product labels, packaging, and online advertisements, over a long  
7 period of time, in order to gain an unfair advantage over competitor products  
8 without the deceptive claims.

9 61. Plaintiff and class members may also be entitled to restitution under  
10 the UCL, while not entitled to damages under other causes of action asserted herein  
11 (e.g., the CLRA is limited to certain types of plaintiffs (an individual who seeks or  
12 acquires, by purchase or lease, any goods or services for personal, family, or  
13 household purposes) and other statutorily enumerated conduct).

14 62. A primary litigation objective in this litigation is to obtain injunction  
15 requiring Defendant to remove the false "No Artificial Preservatives" statement  
16 on the label of the Products. Injunctive relief is appropriate on behalf of Plaintiff  
17 and members of the class because Defendant continues to misrepresent the  
18 Products with the Representation when the Products actually contain an artificial  
19 preservative ingredient.

20 63. Injunctive relief is necessary to prevent Defendant from continuing  
21 to engage in the unfair, fraudulent, and/or unlawful conduct described herein and  
22 to prevent future harm—none of which can be achieved through available legal  
23 remedies (such as monetary damages to compensate past harm).

24 64. Injunctive relief, in the form of affirmative disclosures or halting the  
25 sale of unlawful sold products is necessary to dispel the public misperception about  
26 the Products that has resulted from years of Defendant's unfair, fraudulent, and  
27 unlawful marketing efforts. Such disclosures would include, but are not limited to,  
28

1 publicly disseminated statements stating that the Products actually contain an  
2 artificial preservative ingredient. An injunction requiring affirmative disclosures  
3 to dispel the public's misperception, and prevent the ongoing deception and repeat  
4 purchases, is also not available through a legal remedy (such as monetary  
5 damages).

6 65. Further, because a public injunction is available under the UCL, and  
7 damages will not adequately benefit the general public in a manner equivalent to  
8 an injunction.

9 66. It is premature to determine whether an adequate remedy at law  
10 exists. No discovery has been conducted, and no expert reports have been  
11 exchanged. Defendant's internal documents may provide insight into different  
12 damages theories such as restitution in the form of the profits gained attributable  
13 to the conduct at issue.

#### 14 **CLASS ACTION ALLEGATIONS**

15 67. Plaintiff brings this action as a class action pursuant to Federal Rules  
16 of Civil Procedure 23(b)(2) and 23(b)(3) on behalf of the following Class:

##### 17 **Nationwide Class**

18 All U.S. citizens who purchased the Products in their respective state  
19 of citizenship for personal and household use and not for resale within  
20 the applicable statute of limitations and until the date class notice is  
disseminated.

##### 21 **California Subclass**

22 All California citizens who purchased the Products in California for  
23 personal and household use and not for resale within the applicable  
statute of limitations and until the date class notice is disseminated.

24 (collectively, the "Class")

25 68. Excluded from the class are: (i) Defendant and its officers, directors,  
26 and employees; (ii) any person who files a valid and timely request for exclusion;  
27 (iii) judicial officers and their immediate family members and associated court  
28

1 staff assigned to the case; (iv) individuals who received a full refund of the  
2 Products from Defendant.

3 69. Plaintiff reserves the right to amend or otherwise alter the class  
4 definition presented to the Court at the appropriate time, or to propose or eliminate  
5 subclasses, in response to facts learned through discovery, legal arguments  
6 advanced by Defendant, or otherwise.

7 70. The Class is appropriate for certification because Plaintiff can prove  
8 the elements of the claims on a classwide basis using the same evidence as would  
9 be used to prove those elements in individual actions alleging the same claims.

10 71. Numerosity: Class Members are so numerous that joinder of all  
11 members is impracticable. Plaintiff believes that there are thousands of consumers  
12 who are Class Members described above who have been damaged by Defendant's  
13 deceptive and misleading practices.

14 72. Commonality: There is a well-defined community of interest in the  
15 common questions of law and fact affecting all Class Members. The questions of  
16 law and fact common to the Class Members which predominate over any  
17 questions which may affect individual Class Members include, but are not limited  
18 to:

19 a. Whether Defendant is responsible for the conduct alleged herein  
20 which was uniformly directed at all consumers who purchased the Products;

21 b. Whether Defendant's misconduct set forth in this Complaint  
22 demonstrates that Defendant engaged in unfair, fraudulent, or unlawful business  
23 practices with respect to the advertising, marketing, and sale of the Products;

24 c. Whether Defendant made misrepresentations concerning the  
25 Products that were likely to deceive the public;

26 d. Whether Plaintiff and the Class are entitled to injunctive relief;  
27  
28



1 e. Whether Plaintiff and the Class are entitled to money damages and/or  
2 restitution under the same causes of action as the other Class Members.

3 73. Typicality: Plaintiff is a member of the Class that Plaintiff seeks to  
4 represent. Plaintiff's claims are typical of the claims of each Class Member in that  
5 every member of the Class was susceptible to the same deceptive, misleading  
6 conduct and purchased the Products. Plaintiff is entitled to relief under the same  
7 causes of action as the other Class Members.

8 74. Adequacy: Plaintiff is an adequate Class representative because  
9 Plaintiff's interests do not conflict with the interests of the Class Members  
10 Plaintiff seeks to represent; the consumer fraud claims are common to all other  
11 members of the Class, and Plaintiff has a strong interest in vindicating the rights  
12 of the class; Plaintiff has retained counsel competent and experienced in complex  
13 class action litigation and Plaintiff intends to vigorously prosecute this action.  
14 Plaintiff has no interests which conflict with those of the Class. The Class  
15 Members' interests will be fairly and adequately protected by Plaintiff and  
16 proposed Class Counsel. Defendant has acted in a manner generally applicable to  
17 the Class, making relief appropriate with respect to Plaintiff and the Class  
18 Members. The prosecution of separate actions by individual Class Members  
19 would create a risk of inconsistent and varying adjudications.

20 75. The Class is properly brought and should be maintained as a class  
21 action because a class action is superior to traditional litigation of this  
22 controversy. A class action is superior to the other available methods for the fair  
23 and efficient adjudication of this controversy because:

24 a. The joinder of hundreds of individual Class Members is  
25 impracticable, cumbersome, unduly burdensome, and a waste of judicial and/or  
26 litigation resources;

1           b.     The individual claims of the Class Members may be relatively modest  
2 compared with the expense of litigating the claim, thereby making it impracticable,  
3 unduly burdensome, and expensive to justify individual actions;

4           c.     When Defendant's liability has been adjudicated, all Class Members'  
5 claims can be determined by the Court and administered efficiently in a manner  
6 far less burdensome and expensive than if it were attempted through filing,  
7 discovery, and trial of all individual cases;

8           d.     This class action will promote orderly, efficient, expeditious, and  
9 appropriate adjudication and administration of Class claims;

10          e.     Plaintiff knows of no difficulty to be encountered in the management  
11 of this action that would preclude its maintenance as a class action;

12          f.     This class action will assure uniformity of decisions among Class  
13 Members;

14          g.     The Class is readily definable and prosecution of this action as a class  
15 action will eliminate the possibility of repetitious litigation; and

16          h.     Class Members' interests in individually controlling the prosecution  
17 of separate actions is outweighed by their interest in efficient resolution by single  
18 class action;

19           76.    Additionally or in the alternative, the Class also may be certified  
20 because Defendant has acted or refused to act on grounds generally applicable to  
21 the Class thereby making final declaratory and/or injunctive relief with respect to  
22 the members of the Class as a whole, appropriate.

23           77.    Plaintiff seeks preliminary and permanent injunctive and equitable  
24 relief on behalf of the Class, on grounds generally applicable to the Class, to  
25 enjoin and prevent Defendant from engaging in the acts described, and to require  
26 Defendant to provide full restitution to Plaintiff and the Class members.



1 the Products contain an artificial preservative ingredient to be important to their  
2 decision in purchasing the Products. Defendant's Representation violates the  
3 CLRA in the following ways:

4 a) Defendant represented that the Products have characteristics,  
5 ingredients, uses, and benefits which they do not have (Cal. Civ. Code §  
6 1770(a)(5));

7 b) Defendant represented that the Products are of a particular standard,  
8 quality, or grade, which they are not (Cal. Civ. Code § 1770(a)(7));

9 c) Defendant advertised the Products with an intent not to sell the  
10 Products as advertised (Cal. Civ. Code § 1770(a)(9)); and

11 d) Defendant represented that the subject of a transaction has been  
12 supplied in accordance with a previous representation when it has not (Cal. Civ.  
13 Code § 1770(a)(16)).

14 86. Defendant violated the CLRA because the Products were  
15 prominently advertised with the Representation but, in reality, the Products  
16 contain an artificial preservative. Defendant knew or should have known that  
17 consumers would want to know that the Products contain an artificial  
18 preservative.

19 87. Defendant's actions as described herein were done with conscious  
20 disregard of Plaintiff's and the Class members' rights and were wanton and  
21 malicious.

22 88. Defendant's wrongful business practices constituted, and constitute,  
23 a continuing course of conduct in violation of the CLRA, since Defendant is still  
24 representing that the Products have characteristics which they do not have.

25 89. Pursuant to California Civil Code section 1782(d), Plaintiff and the  
26 members of the Class seek an order enjoining Defendant from engaging in the  
27 methods, acts, and practices alleged herein. Plaintiff also seeks actual damages,  
28

1 punitive damages, and attorneys' fees and costs for Defendant's violations of the  
2 CLRA.

3 90. Pursuant to California Civil Code section 1782, on December 11,  
4 2024, a written demand letter was sent to Defendant on behalf of putative class of  
5 California consumers, requesting that Defendant remedy the violations alleged  
6 herein. More than thirty days have passed since Defendant received the demand  
7 letter. Defendant refused to take any corrective action. Instead, Defendant  
8 responded that the claims were without merit because "there is no way to  
9 determine whether silicon is 'artificial' or naturally occurring." This is not true.  
10 As explained above, numerous published articles and Silicone Dioxide suppliers  
11 explain that the substance is artificial, and Plaintiff's counsel's investigation has  
12 concluded that the Silicon Dioxide in the Products is artificially made. If the  
13 Products truly contained non-artificial Silicon Dioxide, Defendant could have  
14 simply provided the documentation and avoided this lawsuit. Defendant's actions  
15 strongly indicate that the Silicon Dioxide in the Products is in fact artificial, and  
16 Defendant has decided to continue selling the Product with the deceptive  
17 Representation. Thus, this Complaint seeks actual and punitive damages in  
18 addition to injunctive relief, and attorneys' fees and costs for Defendant's  
19 violations of the CLRA.

20 91. Pursuant to section 1780(d) of the CLRA, below is an affidavit  
21 showing that this action was commenced in a proper forum.

22 **SECOND CLAIM FOR RELIEF**

23 **Violation of California's Unfair Competition Law**

24 **Cal. Bus. & Prof. Code §§ 17200, *et seq.***

25 92. Plaintiff realleges and incorporates by reference all allegations  
26  
27  
28

1 contained in this complaint, as though fully set forth herein.

2 93. Plaintiff brings this claim under the UCL individually and on behalf  
3 of the California Subclass against Defendant.

4 94. The UCL prohibits any “unlawful,” “fraudulent,” or “unfair”  
5 business act or practice and any false or misleading advertising.

6 95. Defendant committed unlawful business acts or practices by making  
7 the Representation and omitted material facts (which constitutes advertising  
8 within the meaning of California Business & Professions Code section 17200), as  
9 set forth more fully herein, and by violating California’s Consumers Legal  
10 Remedies Act, Cal. Civ. Code §§17500, *et seq.*, California’s False Advertising  
11 Law, Cal. Bus. & Prof. § 17500, *et seq.*, 15 U.S.C. § 45, and by breaching express  
12 warranties.

13 96. Plaintiff, individually and on behalf of the other Class members,  
14 reserves the right to allege other violations of law, which constitute other unlawful  
15 business acts or practices. Such conduct is ongoing and continues to this date.

16 97. Defendant committed “unfair” business acts or practices by: (1)  
17 engaging in conduct where the utility of such conduct is outweighed by the harm  
18 to Plaintiff and the members of the a Class; (2) engaging in conduct that is  
19 immoral, unethical, oppressive, unscrupulous, or substantially injurious to  
20 Plaintiff and the members of the Class; and (3) engaging in conduct that  
21 undermines or violates the intent of the consumer protection laws alleged herein.

22 98. There is no societal benefit from deceptive advertising.

23 99. Plaintiff and the other Class members paid for a Product that is not  
24 as advertised by Defendant. Further, Defendant failed to disclose a material fact  
25 (that the Products contain an artificial preservative) of which it had exclusive  
26 knowledge. While Plaintiff and the other Class members were harmed, Defendant  
27 was unjustly enriched by its false misrepresentations and material omissions. As  
28



1 a result, Defendant's conduct is "unfair," as it offended an established public  
2 policy. There were reasonably available alternatives to further Defendant's  
3 legitimate business interests, other than the conduct described herein.

4 100. Defendant committed "fraudulent" business acts or practices by  
5 making the representations of material fact regarding the Products set forth herein.  
6 Defendant's business practices as alleged are "fraudulent" under the UCL because  
7 they are likely to deceive customers into believing the Products actually contain  
8 no artificial preservatives.

9 101. Plaintiff and the other members of the Class have in fact been  
10 deceived as a result of their reliance on Defendant's material Representation and  
11 omissions. This reliance has caused harm to Plaintiff and the other members of  
12 the Class, each of whom purchased Defendant's Products. Plaintiff and the other  
13 Class members have suffered injury in fact and lost money as a result of  
14 purchasing the Products and Defendant's unlawful, unfair, and fraudulent  
15 practices.

16 102. Defendant's wrongful business practices and violations of the UCL  
17 are ongoing.

18 103. Plaintiff and the Class seek pre-judgment interest as a direct and  
19 proximate result of Defendant's unfair and fraudulent business conduct. The  
20 amount on which interest is to be calculated is a sum certain and capable of  
21 calculation, and Plaintiff and the Class seek interest in an amount according to  
22 proof.

23 104. Unless restrained and enjoined, Defendant will continue to engage  
24 in the above-described conduct. Accordingly, injunctive relief is appropriate.

25 105. Pursuant to California Business & Professions Code section 17203,  
26 Plaintiff, individually and on behalf of the Class, seeks (1) restitution from  
27 Defendant of all money obtained from Plaintiff and the other Class members as a  
28

1 result of unfair competition; (2) an injunction prohibiting Defendant from  
2 continuing such practices in the State of California that do not comply with  
3 California law; and (3) all other relief this Court deems appropriate, consistent  
4 with California Business & Professions Code section 17203.

5 **THIRD CLAIM FOR RELIEF**

6 **Breach of Express Warranty**

7 106. Plaintiff realleges and incorporates by reference all allegations  
8 contained in this complaint, as though fully set forth herein.

9 107. Plaintiff brings this claim for breach of express warranty individually  
10 and on behalf of the Nationwide Class and California Subclass against Defendant.

11 108. As the manufacturer, marketer, distributor, and seller of the  
12 Products, Defendant issued an express warranty by representing to consumers at  
13 the point of purchase that the Products followed the Representation.

14 109. Plaintiff and the Class reasonably relied on Defendant's  
15 misrepresentations, descriptions and specifications regarding the Products,  
16 including the Representation.

17 110. Defendant's Representation was part of the description of the goods  
18 and the bargain upon which the goods were offered for sale and purchased by  
19 Plaintiff and Members of the Class.

20 111. In fact, the Product does not conform to Defendant's Representation  
21 because the Products contain an artificial preservative. By falsely representing the  
22 Products in this way, Defendant breached express warranties.

23 112. Plaintiff relied on Defendant's (the manufacturer) Representation on  
24 the Products' labels and advertising materials which provide the basis for an  
25 express warranty under common law.

26 113. As a direct and proximate result of Defendant's breach, Plaintiff and  
27 Members of the Class were injured because they: (1) paid money for the Products  
28

1 that were not what Defendant represented; (2) were deprived of the benefit of the  
2 bargain because the Products they purchased were different than Defendant  
3 advertised; and (3) were deprived of the benefit of the bargain because the  
4 Products they purchased had less value than if Defendant's Representation about  
5 the characteristics of the Products was truthful.

6 114. Had Defendant not breached the express warranty by making the  
7 false Representation alleged herein, Plaintiff and Class Members would not have  
8 purchased the Products or would not have paid as much as they did for them.

9 **REQUEST FOR RELIEF**

10 Plaintiff, individually, and on behalf of all others similarly situated, request  
11 for relief pursuant to each claim set forth in this complaint, as follows:

12 a. Declaring that this action is a proper class action, certifying the Class  
13 as requested herein, designating Plaintiff as the Class Representative and  
14 appointing the undersigned counsel as Class Counsel;

15 b. Ordering restitution and disgorgement of all profits and unjust  
16 enrichment that Defendant obtained from Plaintiff and the Class members as a  
17 result of Defendant's unlawful, unfair, and fraudulent business practices;

18 c. Ordering injunctive relief as permitted by law or equity, including  
19 enjoining Defendant from continuing the unlawful practices as set forth herein,  
20 and ordering Defendant to engage in a corrective advertising campaign;

21 d. Ordering damages in amount which is different than that calculated  
22 for restitution for Plaintiff and the Class;

23 e. Ordering Defendant to pay attorneys' fees and litigation costs to  
24 Plaintiff and the other members of the Class;

25 f. Ordering Defendant to pay both pre- and post-judgment interest on  
26 any amounts awarded; and

27 g. Ordering such other and further relief as may be just and proper.  
28

**JURY DEMAND**

Plaintiff hereby demands a trial by jury of all claims in this Complaint so triable.

Dated: April 24, 2025

Crosner Legal, P.C.

By: /s/ Craig W. Straub  
Craig W. Straub

9440 Santa Monica Blvd. Suite 301  
Beverly Hills, CA 90210  
Tel: (866) 276-7637  
Fax: (310) 510-6429  
craig@crosnerlegal.com

Attorneys for Plaintiff

**Affidavit Pursuant to Civil Code Section 1780(d)**

I, CRAIG W. STRAUB, declare as follows:

1. I am an attorney duly licensed to practice before all of the courts of the State of California. I am one of the counsel of record for Plaintiff.

2. This declaration is made pursuant to § 1780(d) of the California Consumers Legal Remedies Act.

3. Defendant has done, and is doing, business in California, including in this judicial district. Such business includes the marketing, promotion, distribution, and sale of the Products within the State of California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed April 24, 2025 at San Diego, California.

Crosner Legal, P.C.

By: /s/ Craig W. Straub  
Craig W. Straub

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